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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 TONY DALE PENWELL,

11 Petitioner,

Case No. C11-1452-RSL

12 v.
13 SCOTT FRAKES,

14 Respondent.

**ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS**

15 The Court, having reviewed the Report and Recommendation of Brian A. Tsuchida,
16 United States Magistrate Judge, and the remaining record, does hereby find and **ORDER**:

17 (1) The Court adopts the Report and Recommendation.

18 (2) Petitioner's petition for writ of habeas corpus (Dkt. No. 4) is **DENIED** and this
19 action is **DISMISSED** with prejudice.

20 (3) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the
21 United States District Courts, a certificate of appealability is **DENIED**.

1 (4) The Clerk is directed to send copies of this Order to petitioner, to counsel for
2 respondent, and to the Honorable Brian A. Tsuchida.

3 DATED this 12th day of May, 2014.

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6 Robert S. Lasnik
7 United States District Judge